

**NOTICE OF AMENDMENT OF THE LOCAL RULES OF PRACTICE AND
PROCEDURE OF
THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF KANSAS**

The United States Bankruptcy Court for the District of Kansas gives notice of Proposed Local Rules of Practice and Procedure.

The Proposed Local Rules amend the present Local Rules as recommended by of the Bench and Bar Committee of the United States Bankruptcy Court for the District of Kansas with the approval of the Court.

Interested persons, whether or not members of the bar, may submit comments on the Proposed Local Rules addressed to the Clerk of the United States Bankruptcy Court for the District of Kansas at 401 N. Market, Room 167, Wichita, Kansas 67202. All comments must be in writing and must be received by the Clerk no later than January 13, 2006, to receive consideration by the Court.

Copies of the Proposed Local Rules will be available for review by the bar and the public from December 14, 2005 through January 13, 2006 at:

Wichita Clerk's Office
167 U.S. Courthouse
401 North Market
Wichita, KS 67202

Topeka Clerk's Office
240 U.S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

Kansas City Clerk's Office
161 U.S. Courthouse
500 State Avenue
Kansas City, KS 66101

Available on www.ksb.uscourts.gov

LBR 1001.1
SCOPE OF RULES; CITATION

(a) Authority. These supplemental rules are promulgated under the authority of Fed. R. Bankr. P. 9029, D. Kan. S.O. 05-1 and D. Kan. Rule 83.8.12. To the extent not provided by more specific Fed. R. Bankr. P. or D. Kan. LBR, practice before this court is governed by applicable D. Kan. Rules. *See* D. Kan. Rule 83.8.2.

(b) Citation. These rules are cited as D. Kan. LBR 1001.1, e.g. All statutory references are to the Bankruptcy Code, 11 U.S.C. § 101, et seq., unless otherwise specified.

(c) Modification. These rules are, in special cases, subject to such modification as the court may deem necessary or appropriate to meet emergencies or to avoid injustice or great hardship.

(d) Revision information. Effective with the rule revisions in March, 2005, any rule that is revised will indicate its last revision date.

(e) Effective Date. All rules are effective for all cases, whenever filed, unless otherwise stated.

* * *

As amended 10/17/05.

Comments: This rule was amended to include reference to D. Kan. S.O. 05-1, which adopts the Interim Rules. The citation was corrected per D. Kan. Rule 83.1.2 (a). Paragraph (e) was added to clarify effective dates for the rules vis-a-vis the Act.

LBR 1006.1
FILING FEES

Installment payment of filing fees may be permitted by the court as provided by Fed. R. Bankr. P. 1006. Waiver of filing fees may also be permitted in a case filed under Chapter 7, as provided in Fed. R. Bankr. P. 1006. The clerk will not accept checks issued by a debtor for filing fees.

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As amended 10/17/05.

Comments: This rule was amended to include provision for waiver of Chapter 7 filing fees. The Rule was also renumbered to parallel numbering in the Federal rules. Finally, the last sentence was stricken to avoid possible misunderstanding that payment by check was still acceptable in the electronic filing environment.

LBR 1007.1
INITIAL FILINGS

(a) Assembly of Petition and Accompanying Documents. Conventionally filed petitions (i.e., those not filed electronically, usually by pro se debtors), schedules and statements of affairs, and lists of creditors must conform to the Official Bankruptcy Forms and be printed on one side of the paper only. All original documents and pleadings filed with the court must be 2-hole punched at the top and must **not** be stapled.

(1) Voluntary petitions and accompanying documents, if applicable, must be assembled in the following order:

- (A) petition (Official Form 1 and any accompanying exhibits);
- (B) statement of financial affairs (Official Form 7);
- (C) list of creditors holding 20 largest unsecured claims (Official Form 4, only in chapter 11);
- (D) schedules A through J (Official Forms B-6A thru B-6J, inclusive);
- (E) summary of schedules (Official Form B-6-Summary, Cover Sheet);
- (F) statistical summary of certain liabilities (Official Form B-6-Summ2, Cover Sheet);
- (G) declaration concerning debtor's schedules (Official Form B-6-Decl.);
- (H) chapter 7 individual debtor's statement of intention (Official Form B-8);
- (I) Rule 2016(b) statement of attorney compensation (Procedural Form B-203);
- (J) statement of current monthly income and means test calculation (Procedural Form B-22A, in Chapter 7);
- (K) statement of current monthly income and means test calculation with separate IRS housing allowance (Procedural Form B-22A, in Chapter 7);
- (L) statement of current monthly income (Procedural Form B-22B, in Chapter 11);
- (M) statement of current monthly income and disposable income calculation (Procedural Form B-22C, in Chapter 13);
- (N) statement of current monthly income and disposable income calculation with separate IRS housing allowance (Procedural Form B-22C, in Chapter 13);
- (O) declaration and signature of non-attorney bankruptcy petition preparer (Procedural Form 19A);
- (P) notice to debtor by non-attorney bankruptcy petition preparer (Procedural Form 19B);
- (Q) for a case filed under Chapter 11, and for which the debtor elects small business status, the most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed; and
- (R) certificate required under § 521(a)(1)(B)(iii)(I) or (II) (Procedural Form 201).

(2) The following documents, if applicable, must **not** be attached to the petition:

- (A) application to pay filing fees in installments (Official Form 3A);
- (B) application for waiver of Chapter 7 filing fee (Official Form 3B);
- (C) matrix and matrix verification;
- (D) the plan (if submitted when petition is filed in chapters 11, 12 and 13);
- (E) Procedural Form B-21 Statement of Social Security Number;
- (F) copies of payment advices or other evidence of payment, if any, with all but the last four numbers of the debtor's Social Security Number redacted, received by the debtor

from an employer within 60 days before the filing of the petition;

(G) a record of any interest that the debtor has in an account or program of the type specified in § 521(c); and

(H) a certificate for credit counseling and debt repayment plan, if any, a certification under § 109(h)(3), or a request for determination by the court under § 109(h)(4).

(3) Electronically filed petitions must follow the same order as listed in paragraph (a)(1) above, except that the Declaration Re: Electronic Filing must be conventionally submitted in lieu of Form B-21.

(b) Matrix. Every petition must be accompanied by a matrix in a form prescribed by the clerk and adopted by D. Kan. Bk. S.O. 05-1. Names and complete addresses of creditors must be listed in alphabetical order. The first and succeeding pages of a conventionally filed matrix must list on the reverse side of the page the name of the debtor.

Every matrix, whether original or amended, must be signed and verified as provided in Fed. R. Bankr. P. 1008.

(c) Creditors' Schedules. Creditors must be listed alphabetically with the full address of each, including post office box or street number, city or town, state and zip code. If it is known that the account or debt, including any applicable domestic support obligation, as that term is defined in § 101(14A), has been assigned or is in the hands of an attorney or other agency for collection, the full name and address of such assignee or agent must be set forth, but without twice extending the dollar amount of the debt. Each entry required by this subsection must be separated by two spaces from the next succeeding entry. If an agency of the United States or the State of Kansas is listed as a creditor, the agency must be noticed as provided by D. Kan. Bk. S.O. 05-7.

* * *

As amended 10/17/05.

Comments: This rule was amended to include new documents required by BACPA, to refer to official form names whenever possible, and to remove the requirement of providing spousal income in paragraph (d), since this information must be provided in the Statement of Current Monthly Income. A few small stylistic changes were also incorporated.

LBR 1009.1
AMENDMENTS TO LISTS AND SCHEDULES OF
CREDITORS AND APPLICABLE DEADLINES

(a) Notice. Debtor must serve amendments to Schedules D, E, F, G or H and matrices on affected entities, the trustee and the United States trustee, with a notice in compliance with Appendix 1-01.

(b) Verification. An amendment must be signed and verified in the same manner required for originals.

(c) Filing Fees. An amendment to schedules or lists of creditors must be accompanied by the applicable filing fee as prescribed by the Administrative Office of the United States Courts as of the date of the filing of the amendment.

* * *

As amended 10/17/05.

Comments: This rule was amended to conform to amendments to the corresponding Federal rule that takes effect December 1, 2005. The rule was also amended to remove questionable language about deadlines. Finally, the rule was stylistically revised for readability. The above changes were also incorporated into Appendix 1-01, below.

Appendix 1-01 to LBR 1009.1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS

In Re:)
) Case No.
Debtor(s))

NOTICE OF AMENDMENT OF SCHEDULES D, E, F, G OR H
(ADDITION OF CREDITOR(S))

You are hereby notified that the debtor(s) has filed the attached amended schedule(s) of debt to include the creditor listed below. Debtor's counsel shall also separately provide you a copy of the debtor(s)' full Social Security Number.

1. Creditor (name and address): _____
2. Claim (amount owed, nature of claim, date incurred):

3. This claim has been scheduled as (Check one box):
 ☐ secured; ☐ priority; ☐ general unsecured.
4. Trustee, if one has been appointed: _____
5. Original deadline for filing proofs of claim:

6. Deadline for filing complaints objecting to discharge of specific debts or of debtor under 11 U.S.C. § 523, 727
 [Date]: _____
 or
 _____ This claim was added to the schedules after the deadline for filing complaints stated above.

Check applicable provision(s) below:

- _____ This is a no-asset case. It is unnecessary to file a claim now. If it is determined there are assets to distribute, creditors will receive a notice setting a deadline to file claims.
- _____ This claim was added to the schedules after the deadline for filing claims stated above.
- _____ This is a Chapter 13 case. You have until the bar date to file your proof of claim.
- _____ A plan in this case was confirmed on [Date].
- _____ No plan has been confirmed in this case, but a confirmation hearing is currently set for [Date] at [Location]. Since the amendment was filed too late to give notice, you may file an objection to either confirmation of the plan or the amendment to the schedules by [Date]. If an objection is timely filed, a non-evidentiary preliminary hearing will be scheduled and notice provided by the Clerk upon expiration of the deadline date.

Attorney for Debtor(s) (type name and address)

Certificate of Service: I, _____, certify the above notice and a separate notice of the full Social Security Number of the debtor(s) was served on the above-named creditor by first class, postage prepaid mail, on _____.

(Signature above)

* * *

As amended 10/17/05.

LBR 2002.1
NOTICE TO CREDITORS AND
OTHER INTERESTED PARTIES

(a) General. Notices served by the clerk are generally mailed by the Bankruptcy Noticing Center (“BNC”).

(b) Undeliverable notices. A matrix that does not comply with the requirements of D. Kan. LBR 1007.1 and any applicable Standing Order may cause certain notices to be undeliverable by the BNC. The clerk, or some other person as the court may direct, will notify the debtor's attorney, or the debtor if not represented, of any undelivered notices, together with the underlying matrix deficiency (e.g., incomplete address, missing zip code). Within 5 days after notification, the debtor's attorney, or the debtor if not represented, must:

- (1) file the corrected BNC Bypass Notice; and
- (2) serve any undelivered notices to all parties not served by the BNC.

(c) Preferred Addresses and National Creditor Register Service in Chapter 7 or 13 cases filed after October 16, 2005 under 11 U.S.C. § 342(e) and (f).

(1) Pursuant to 11 U.S.C. § 342(e) and (f), an entity and the BNC may agree that when the BNC is directed by the Court to give a notice to that entity, the BNC shall give the notice to the entity in the manner agreed to and at the address or addresses the entity supplies to the BNC. That address is conclusively presumed to be a proper address for the notice. The BNC’s failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.

(2) The filing of a notice of preferred address pursuant to 11 U.S.C. § 342(f) by a creditor directly with the BNC will constitute the filing of such a notice with the Court.

(3) Registration with the National Creditor Registration Service must be accomplished through the BNC. Forms and registration information is available at www.ncrsuscourts.com.

(4) A local form for use by creditors in filing notice of preferred address under 11 U.S.C. § 342(e) is available on the Court’s website at <http://www.ksb.uscourts.gov>.

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As amended 3/17/05.

As amended 10/17/05.

LBR 2014.1
APPLICATION FOR EMPLOYMENT
OF PROFESSIONALS

(a) Trustee/Debtor-in-Possession's Application to Employ Attorney to Conduct Chapter 11 Case. Under § 327, a trustee/debtor-in-possession may employ attorneys to conduct the Chapter 11 case (as distinguished from attorneys employed other than to conduct the case). To employ attorneys to conduct the case, the trustee/debtor-in-possession must file *with the petition* an application to employ attorneys to conduct the case in accordance with the limitations on compensation as set out in § 328.

(1) The application must include the following information for *the firm and for each individual* attorney who will appear before the court in the conduct of the case:

- (A) the attorney's name, address;
- (B) specific facts showing the necessity for the employment;
- (C) the reasons for the selection;
- (D) the professional services to be rendered; and
- (E) any proposed arrangement for compensation.

(2) The application must be accompanied by the statement of compensation paid or agreed to be paid required by § 329---Official Bankruptcy Form B203, Disclosure of Compensation of Attorney for Debtor.

(b) Accompanying Affidavit. The application must be accompanied by a separate affidavit signed by *each* individual attorney who will appear before the court in the conduct of the case, stating:

- (1) that the attorney is disinterested;
- (2) that the attorney does not hold or represent an interest adverse to the estate;
- (3) a description of the inquiry made to determine that the attorneys who will appear before the court in the conduct of the case and all the members of the firm do not hold or represent an adverse interest to the estate and are disinterested persons;
- (4) the firm's and the attorney's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee;
- (5) the attorney understands that there is a continuing duty to disclose any adverse interest and change in disinterestedness; and
- (6) the attorney understands that the court's approval of the application is not approval of any proposed terms of compensation and under § 328(a) the court may allow compensation on terms different from those proposed.

(c) Notice and Certificate of Service. The application must be accompanied by a Notice with Opportunity for Non-Evidentiary Hearing or Notice with Objection Deadline in accordance with the noticing guidelines applicable to the division and judge to whom the case is assigned and must contain a certificate evidencing service of the application, the affidavits, and the notice upon the required parties.

(d) Service. The application, attorney affidavits, and notice must be served forthwith upon the following:

- (1) the United States trustee;
- (2) all creditors holding secured claims;
- (3) all parties requesting notice; and
- (4) any operating creditors' committee, or if none, upon the List of Creditors Holding 20 Largest Unsecured Claims--Official Bankruptcy Form 4.

(e) **Objections.** Interested parties must object to the application within 20 days. If no objection to the application is timely filed, the court may forthwith approve the attorney's employment to represent the trustee/debtor-in-possession.

(f) **Proposed Order Approving Employment.** The trustee/debtor-in-possession must submit with the application a proposed Order Approving Employment in accordance with the noticing guidelines for submission of orders applicable to the division and judge to whom the case is assigned. The proposed order must acknowledge that:

- (1) the court's approval of an application in which a professional states an intention to be compensated at a specific hourly rate does not constitute approval of the hourly rate or other terms of compensation; and
- (2) approval of the terms of compensation will be considered by the court when a final allowance of compensation is made.

(g) **Trustee's or Committee's Application to Employ Professionals Other Than Attorneys to Represent the Trustee/Debtor-in-Possession in Conducting a Chapter 11 Case.** Trustees or committees applying to employ firms of professionals or individual professionals (whether special counsel, accountants, appraisers, or otherwise) must also follow the application, service, notice and certification of service, objection, and proposed order procedures set forth above. Each individual professional (whether or not an attorney) seeking employment must file an affidavit containing the information required by subsection (a)(1).

(h) When a Chapter 7 trustee applies to appoint himself or herself as counsel for the estate, however, the notice required by paragraph (b) above may be restricted to the United States trustee only.

* * *

As amended 10/17/05.

Comments: Paragraph (a) was amended to conform to limitations imposed by the BAPCPA.

LBR 3001.1
CLAIMS

(a) Service. Claimants in Chapters 11, 12, and 13 must send a copy of the proof of claim to debtor's counsel, or to the debtor if not represented, at the time of filing.

(b) Withdrawal of Written Instruments Filed with Claims. Written instruments or other documents conventionally filed with a proof of claim may be withdrawn upon written request of the claimant, provided the request is accompanied by photostatic or other exact copies of the documents to be withdrawn. If the documents are negotiable instruments, the originals must be stamped with a statement indicating they were filed in support of a claim and showing the name, case number and the date the claim was filed.

(c) Secured and Unsecured Claims. A proof of claim must indicate whether the claim is secured, unsecured, or if both, must specify the respective amounts claimed. The claim may include proposed amounts for secured and unsecured claims and must clearly indicate that it includes a proposed amount.

(d) Amendment to Claim in Chapter 7. A proof of claim, other than a priority claim, may be amended at any time prior to notice of final distribution by the trustee, but not thereafter. A priority claim may be filed or amended on or before the date that is ten days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under § 726, whichever is earlier. If the trustee has not objected to secured claims, he or she must give 20 days' notice to all parties who have filed secured claims of his or her intent to file and serve a notice of final distribution.

(e) Filing of Requests for Administrative Expenses in a Chapter 7 Case. A request for payment of administrative expenses must be filed prior to the notice of final distribution by the trustee.

* * *

As amended 10/17/05.

Comments: This rule was amended to conform to new limitations on amendments to claims specified in the BAPCPA and case law in the Tenth Circuit.

LBR 3015(b).1
CHAPTER 13 PLAN AND PRE-CONFIRMATION
ADEQUATE PROTECTION PAYMENTS

(a) Filed with Petition. A chapter 13 plan filed with the petition will be served, together with notice of the time for filing objections and the hearing to consider confirmation, by the Bankruptcy Noticing Center ("BNC").

(b) Filed after Petition. A plan filed after the petition must be served, together with notice of the time for objections and the hearing to consider confirmation, by the debtor's attorney, or the debtor if not represented. A certificate of service must be filed within 5 days of service.

(c) Failure to File. Unless an extension has been obtained, failure to file a plan, together with a certificate of service, prior to the first scheduled meeting of creditors held pursuant to § 341 will result in dismissal of the case for unnecessary delay without further notice to the debtor or counsel.

(d) Treatment of Real Estate Mortgage Arrearage Claims and Continuing Payments. A timely claim for mortgage payments or mortgage arrearages will be paid by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation, or specific language in the Order of Confirmation otherwise directs payment.

(e) Treatment of Priority Claims. A timely priority claim will be paid in full by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation or specific language in the Order of Confirmation otherwise directs payment.

(f) Objection to claim. Nothing in this Rule abrogates the right of the debtor, trustee or other party in interest to object to any claim.

(g) Plan Payments; Adequate Protection Payments under § 1326(a)(1)(C):

(1) Pre-confirmation § 1326(a)(1) Payments to Trustee: Unless the court orders otherwise, debtors shall pay directly to the trustee all pre-confirmation adequate protection payments payable to creditors whose claims are secured by purchase money security interests in personal property. The trustee shall promptly distribute those payments to the secured creditors whose interests are being protected, except the trustee shall be permitted to retain the portion of the payment representing the statutory percentage trustee fee required to be paid under subsection (g)(2)(ii).

(2) Plan Payments: The chapter 13 plan shall specify the amounts to be paid on account of each allowed secured claim to be treated under the plan. The total amount of the plan payment to be made to the trustee by a debtor pursuant to § 1326(a)(1) shall include: (i) an amount equal to any proposed adequate protection payment to each secured creditor whose claim is secured by a purchase money security interest; (ii) any trustee's fees to be paid upon the distribution of a payment described in (i); and (iii) any other amounts to be paid to the trustee under the plan. The plan shall contain the name of any secured creditor to receive pre-confirmation adequate protection payments, the proper service address for receipt of payments by that creditor, and the account number.

(3) Amount of Adequate Protection Payments under § 1326(a)(1)(C): Unless a different payment amount is ordered by the court, the debtor shall pay adequate protection payments equaling the payment provided in the debtor's chapter 13 plan pursuant to subsection (g)(2)(i) plus statutory percentage trustee fees required by subsection (g)(2)(ii) when that payment is being made to the trustee. If the secured creditor files a proof of claim specifying a different payment amount, the claim amount will thereafter control for payment and distribution unless the court orders otherwise.

(4) Direct Payment Opt-Out: Secured creditors eligible for direct payment of adequate protection under § 1326(a)(1) may opt for such direct payments by filing a motion seeking

such treatment and noticing it for objection in accordance with these rules and the procedures of the division in which the case is pending. If no timely objection is filed, the court may enter an order requiring direct payments without further hearing. In the event such an order is entered, the debtor shall make those payments directly to the secured creditor, and file a certification of such payments accordance with § 1326(a)(1)(C).

(5) Pre-confirmation Disbursements of Adequate Protection Payments to Secured Creditors by Trustee: Pre-confirmation disbursements of adequate protection payments under § 1326(a)(1) are hereby authorized without further order, but such disbursements shall not be made unless the secured creditor has filed a proof of claim with the court. Pre-confirmation disbursements under § 1326(a)(1) shall be made to creditors within 30 days of the filing of the proof of claim, unless, within 7 business days prior to the end of such 30 day period, the trustee has not received sufficient, cleared funds to make such payment. The trustee is authorized to deduct from an allowed claim all § 1326(a)(1) pre-confirmation disbursements.

* * *

As amended 10/17/05.

Comments: This addition of subsection (g) to rule 3015(b).1 is required to address the various components of a plan payment under new § 1326(a)(1) and the making of adequate protection payments provided for in § 1326(a). It additionally clarifies that Chapter 13 trustees fees will be allowed on these payments, but also that debtors must pay trustee those fees in addition to the adequate protection payments. These payments are to be made directly to the Chapter 13 trustee in the first instance in order to further the efficient and timely functioning of the Chapter 13 system in this District. Even so, the revised Rule also allows for affected lessors or secured creditors to opt for direct payments, as contemplated by the statute, by filing a motion on negative notice. Further, the Rule sets the amount of adequate protection payments under § 1326(a)(1)(C). Finally, because § 1326(a)(1)(C) refers to the adequate protection of creditors "holding an allowed claim secured by personal property," the trustee's duty to disburse does not attach until such time as the creditor files a proof of claim.

LBR 3022.1
FINAL DECREE IN NON-INDIVIDUAL CHAPTER 11
REORGANIZATION CASES

(a) Timing. Within 3 months after the order of confirmation is entered, the plan proponent must file an application for a final decree, or show cause why the final decree cannot be entered. If an application is not filed within 3 months, a status report must be filed every 6 months thereafter until entry of the final decree.

(b) Content. The application for final decree must show that the estate has been fully administered and must include information concerning:

- (1) the date the order confirming the plan became final;
- (2) whether deposits required by the plan have been distributed;
- (3) whether the property proposed by the plan to be transferred has been transferred;
- (4) whether the debtor or successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;
- (5) whether payments under the plan have commenced;
- (6) whether all motions, contested matters and adversary proceedings have been finally resolved;
- (7) whether all fees due under 28 U.S.C. § 1930 have been paid;
- (8) a summary of professional fees awarded in the case;
- (9) the percentage paid to unsecured creditors; and
- (10) other facts as may be necessary to enable the court to pass on the provisions to be included in the final decree.

(c) Notice. The applicant must give 30 days' notice to the following in accordance with the noticing guidelines provided by the clerk:

- (1) all parties requesting notice;
- (2) the United States trustee; and
- (3) any operating creditors' committee, or if none, creditors holding the largest 20 unsecured claims.

* * *

As amended 10/17/05.

Comments: This rule was revised to specify that it only applies to non-individual debtors, because the BAPCPA treats individual Chapter 11 debtors differently.

LBR 4001(a).1
STAY RELIEF

(a) Adequate Protection. A motion for stay relief may be combined with a request for adequate protection.

(b) Waiver. The following constitutes a voluntary waiver of the 30-day requirement for a hearing contained in § 362(e):

- (1) the motion for stay relief includes a request for any other related relief;
- (2) movant sets a motion for stay relief, pursuant to D. Kan. LBR 9013.2 for a docket more than 30 days from the filing of the motion, which is considered a preliminary hearing under that section; and
- (3) movant fails to request that the final hearing be concluded within 30 days of the preliminary hearing.

(c) Effect of Debtor's Stated Intent to Surrender Property. So long as an individual Chapter 7 debtor's Statement of Intention (Official Bankruptcy Form 8) indicating an intent to surrender property that secures a debt owed to a creditor has not been amended or withdrawn, the debtor will be deemed to have agreed to the specified creditor's stay relief motion concerning that property. When a stay relief motion clearly informs the Clerk's Office that it is being filed pursuant to this provision, the filing fee shall be the same as for a motion for approval of an agreement or stipulation for stay relief. A creditor that files a stay relief motion pursuant to this provision must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure.

(d) Information and Documentation Required With Motions For Relief From Automatic Stay. Motions for Relief From Stay must include the following:

- (1) Copies of documents upon which the claim is based, including loan documents and documents that evidence both the grant of the lien, security interest, mortgage or other encumbrance, and its proper perfection or proper recordation;
- (2) The balance owing as of the date the petition is filed, and the date and amount of any payments received since the filing;
- (3) The number of payments the debtor is in arrears, and the amount of each such payment, including the total arrearage as of the petition date;
- (4) The movant's best estimate of the value of the collateral;
- (5) The identity of any person or entity claiming an interest in the property that is the subject of the motion and of which movant is aware.

(e) Post-Petition Stay Relief in Chapter 13 Cases. If the movant is seeking stay relief for default in post-petition payments on property that is either the debtor's principal residence or a long term debt that debtor's Chapter 13 Plan provides for pursuant to § 1322(b)(5), then the motion and/or exhibit(s) thereto shall contain the following:

- (1) A legible post-petition payment history that sets forth the date each post-petition payment was received, the amount of each post-petition payment, and how each post-petition payment was applied;
- (2) An itemization of any other expenses or fees that are due post-petition including attorney fees, filing fees, late payment fees, and escrow advance;
- (3) The total dollar amount necessary to cure the post-petition debt as of a date certain;
- (4) The address where the current monthly payment is to be mailed if the mailing address is not listed in the movant's filed proof of claim or if the mailing address has changed.

(f) Conditional Orders Granting Stay Relief in Chapter 13 Cases. An order that

resolves the motion for stay relief agreed to by the parties and that does not grant immediate stay relief shall be known as a “Conditional Order Granting Stay Relief,” and the following shall apply upon alleged default:

(1) The movant shall file and serve a notice of the default upon debtor and debtor’s counsel, which shall set forth the payments allegedly missed and any other term(s) allegedly breached.

(2) If debtor disputes the default, then debtor shall file a response within the time set forth in the Conditional Order Granting Stay Relief or within 15 days, whichever is later, and the court will set the matter for hearing. If debtor does not timely file a response to the notice of default, movant shall submit to the court a final order granting stay relief.

(3) The trustee shall continue to disburse on movant’s claim until the final order granting relief from stay is entered. If the final order granting stay relief is entered, the trustee shall, as of the date of the order, adjust movant’s claim to zero (\$0.00) and make no further disbursements on the claim. It is the responsibility of the parties to notify the trustee of any agreement or ruling reinstating the automatic stay and the terms thereof, so that the claim may be restored.

(g) Stay relief. A creditor who files a stay relief motion pursuant to this rule must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure. Notice with an objection deadline is not required when the creditor simultaneously submits, with the motion for stay relief, an agreed order signed by the creditor's attorney, debtor's attorney, and trustee.

* * *

As amended 10/17/05.

Comments: New subsection (g) was added to prevent any confusion about noticing requirements under subsection (c).

LBR 4001(a).2
EFFECT OF AUTOMATIC STAY IN
CHAPTER 12 AND 13 CASES ON INCOME
WITHHOLDING ORDERS FOR CHILD SUPPORT
IN CASES FILED BEFORE OCTOBER 17, 2005

(a) Income Withholding Orders for Current Child Support. Unless the debtor files along with the petition a motion pursuant to paragraph (c), the automatic stay imposed by § 362(a) does not affect current child support orders enforced by income withholding orders on the date the bankruptcy petition is filed, whether imposed or voluntary.

(b) Income Withholding Orders for Past Due Child Support. The automatic stay remains in force as it pertains to past-due child support enforced through an income withholding order, whether imposed or voluntary, on the condition that the debtor's plan specifically addresses and treats the debtor's obligation to pay past-due child support.

(c) Termination of Income Withholding Orders. Termination of an income withholding order that enforces a current child support obligation must be made by motion that sets out specific grounds justifying the termination of the withholding order and the continued application of the automatic stay. If the motion is denied, the prevailing party may be awarded reasonable costs, fees, and expenses incurred in opposing the motion, as authorized by applicable rule or statute.

(d) No Income Withholding Order. Nothing in this rule affects the obligation of a debtor to pay child support not being collected by an income withholding order.

(e) Applicability. Due to the adoption of the BAPCPA, this rule is abrogated for all cases filed after October 16, 2005.

* * *

As amended 10/17/05.

Comments: This rule was amended to clarify that it is ONLY applicable to cases filed before the effective date of the BAPCPA.

LBR 4002.1

TRUSTEE'S REQUEST FOR EVIDENCE OF INCOME, INCLUDING TAX RETURNS

In addition to the other duties required under § 521, the debtor must provide to the trustee at least seven days prior to the meeting of creditors held under § 341, completed copies of the most recent one year of Federal and State income tax returns filed pre-petition with the respective taxing authority, where applicable, unless the trustee requests otherwise. If the debtor has not filed a tax return for the most recent tax year ending before the commencement of the case and that return is not yet due, the debtor shall timely file the return with the appropriate taxing authorities, and provide a signed copy of the return to the trustee, within seven days of its filing. The trustee may request the debtor to provide copies of Federal and state income tax returns for pre-petition and post-petition tax periods for any year in which the case is pending. The chapter 13 trustee may request the debtor to provide to the trustee a statement of income and expenditures described in § 521(f)(4). This rule or any request by the trustee under this rule does not constitute a request to the debtor under § 521(f) to file copies of such tax returns or statement of income and expenditures directly with the bankruptcy court.

* * *

As amended 10/17/05.

Comments: LBR 4002.2 was renumbered as LBR 4002.1. The rule is amended to note the requirement of the debtor to provide the trustee with copies of the most recent year of Federal and state income tax returns at least seven days prior to the § 341 meeting and to allow the trustee to request copies of the debtor(s)' tax return(s) for any year during the pendency of the case. The rule also clarifies that when a debtor files a case before the previous tax year's returns are due, the debtor must complete and file the return by its due date and provide the trustee with a copy of the return within seven days thereafter. This accords with § 521(f)(2)(A)(I) which requires submission of a copy of the last year's return. Finally, the rule was amended to note that the trustee's request not be deemed or construed to constitute a requirement that the debtor shall file returns or pay stubs directly with the court under 11 U.S.C. § 521(f).

LBR 4002.2
TRUSTEE REQUESTS FOR INFORMATION
FROM DEBTORS

(a) Compliance with Trustee's Request. Unless otherwise ordered by the court, a debtor must comply within 15 days with any written request for information made by a trustee or the United States trustee.

(b) Filing of Requests and Responses. The trustee must not file copies of the requests with the court unless the debtor fails to comply with this rule and the trustee requests the court to compel compliance. Unless in response to a trustee's motion to compel, the debtor must not file copies of responses with the court.

* * *

As amended 10/17/05.

Comments: This rule modified stylistically and to clarify when documents should be filed with the court.

LBR 4002.3
TAX RETURNS

(a) Place of filing.

(1) The original of all Federal tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Internal Revenue Service
271 W 3rd Street N Suite 3000
STOP 5333 WIC
Wichita KS 67202

A signed copy of each return must also be sent to the United States Attorney's Office located in the city where the bankruptcy case is filed.

(2) Except as required by paragraph (a)(3), the original of all state of Kansas tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Kansas Department of Revenue
Civil Tax Enforcement
P O Box 12005
Topeka KS 66612-2005

(3) The original of all state of Kansas unemployment tax returns for pre-petition tax periods filed by a Kansas employer after the filing of the bankruptcy petition must be filed with:

Kansas Department of Labor
Attn Delinquent Account Unit
401 Topeka Blvd
Topeka KS 66603-3182

* * *

As amended 10/17/05.

Comments: This rule is modified to provide debtor/debtor counsel with guidance on where to file. Other provisions of the rule have been superseded by the BAPCPA.

LBR 4070.1
INSURANCE ON MOTOR VEHICLES

(a) Definitions.

(1) "Motor vehicle" includes, but is not limited to, any automobile, motorized mobile home, or house trailer designed for travel on the public highways and/or capable of travel on the public highways.

(2) "Proof of insurance" means a certificate of insurance, or other written evidence of sufficient reliability from the insurance carrier stating that insurance is in force, the amounts and types of coverage, a notation of the secured party as a loss payee, and the time period for which such coverage exists.

(b) Proof of Insurance. Except as provided in § 1326(a)(4), proof of insurance against physical damage and loss for any motor vehicle belonging to or leased by the debtor or the estate, that is subject to the lien of a creditor holding an allowed secured claim, must be furnished to the trustee and the creditor at or before the meeting held under § 341 or upon written demand as provided in (c)(1) below. Failure to immediately furnish proof of insurance is presumed to mean no insurance is in effect. Any written "binder" must be followed by proof of permanent insurance.

(c) Termination of Insurance. If during the pendency of a case, insurance is canceled, not renewed, expires, or lapses for any reason, on any motor vehicle, the following sequence of events may occur:

(1) Notice of Intent. A creditor with an allowed claim secured by the motor vehicle for which insurance has been terminated, as defined in this rule, or has received notice of the insurer's intent to terminate insurance for any reason defined, must notify, in writing, the debtor, the debtor's attorney, and the trustee of the termination, or notice of intent to terminate insurance. Service of notice upon the debtor and the debtor's attorney must be in the manner specified in Fed. R. Bankr. P. 7004(b)(9).

(2) Injunction. The debtor is enjoined from using the motor vehicle for which insurance has, in fact, been terminated as long as the motor vehicle remains uninsured.

(3) Possession. If the debtor fails to provide proof of re-insurance to the creditor within 5 business days following delivery of the notice provided in subsection (c)(1), or fails to provide proof of re-issuance by the day before termination of any grace period granted by the insurer, if later, the debtor must surrender the motor vehicle to the creditor or the creditor may take possession of the motor vehicle securing its claim and hold it pending presentation of proof of insurance by the debtor.

(4) Motion for relief from stay. Within 5 days after taking possession of a motor vehicle, the creditor must file with the court a motion for relief from the automatic stay under § 362.

(d) Subsequent Termination. In the event insurance on a motor vehicle lapses twice during the pendency of a case, the court may, upon the filing of a motion in accordance with § (c)(4) hereof, accompanied by an affidavit evidencing compliance by the creditor with the provisions of this rule and evidencing the previous lapse of insurance coverage, grant the creditor relief, including relief from the automatic stay, without further hearing.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 5003.1

ACCESS TO COURT RECORDS

(a) Access. The public records of the court are available for examination in the clerk's office during normal business hours.

(b) Copies. The clerk will make and furnish copies, as time permits, of official public court records upon request and payment of prescribed fees.

(c) Sealed or Impounded Records. Records or exhibits ordered sealed or impounded by the court are not public records within the meaning of this rule.

(d) Restricted Access Records. Records or exhibits filed with the court, which are nonpublic as specified in the Code or Federal Rules of Bankruptcy Procedure, are not classed as public records within the meaning of this rule.

(e) Search for Cases by the Clerk. The clerk's office is authorized to make a search of the most recent ten years of the master index maintained in the office, and to issue a certificate of the search. The clerk will charge in advance a fee for each name for which a search is conducted, as prescribed by the Administrative Office of the United States Courts.

* * *

As amended 10/17/05.

Comments: Sections 112, 521, 707, etc. create records which must be filed with the court, but which are only to be available to selected parties. These records are not "public" since various confidentiality requirements apply. These records are not sealed or impounded in the traditional sense, because they are available to selected parties.

LBR 5075.1
ORDERS BY BANKRUPTCY CLERK; REVIEW

(a) Orders.

(1) The clerk is authorized to sign and enter the following orders without further direction by the court:

(A) in adversary proceedings

(i) an order extending once for 10 days, the time within which to answer, reply or otherwise plead to a complaint, cross-claim or counterclaim if the time originally prescribed to plead has not expired;

(ii) a consent order dismissing an action, except in cases governed by Fed. R. Bankr. P. 7023 and/or D. Kan. LBR 7041.1;

(iii) entry of default and judgment by default as provided for in Fed. R. Bankr. P. 7055;

(B) an order for the payment of money on consent of all interested parties;

(C) a consent order for the substitution of attorneys;

(D) an order permitting payment of filing fees in installments;

(E) an order for compliance requiring timely filing of schedules and statements or for compliance with filing requirements and a notice of intent to dismiss for failure to comply;

(F) an order granting waiver of Chapter 7 filing fees; and

(G) any other order that is specified by Standing Order as not requiring special direction by the court.

(2) Any order submitted to the clerk under this rule must be signed by the party or attorney submitting it, and is subject to the provisions of Fed. R. Bankr. P. 9011 and D. Kan. LBR 9011.3.

(3) Any order submitted to the clerk for an extension of time under paragraph (a) must state:

(A) the date when the time for the act sought to be extended is due;

(B) the date to which the time for the act is to be extended; and

(C) that the time originally prescribed has not expired.

(b) Action Reviewable. Any order entered by the clerk under this rule may be suspended, altered or rescinded as authorized by Fed. R. Bankr. P. 9024.

* * *

As amended 10/17/05.

Comments: BAPCPA permits the bankruptcy court to waive Chapter 7 filing fees for individuals with an income of less than 150% of the official poverty line. Other changes are merely for clarity, by grouping the 3 "clerk's orders" dealing with adversary proceedings into one subsection, rather than in (A), (D) and (E), where they are now placed.

LBR 6007.1

ABANDONMENT OF PROPERTY OF THE ESTATE

When the Clerk of the Court provides the Notice of Bankruptcy Case, Meeting of Creditors and Deadlines, the Notice shall contain a provision that within 60 days from the conclusion of the meeting of creditors held under § 341, the trustee may file notice of intended abandonment of any or all of the debtor's property in the estate as authorized by § 554 without further service on creditors or interested parties. Unless a creditor or interested party objects to abandonment within 75 days from the conclusion of the meeting of creditors held under § 341, the property subject to the intended abandonment will be deemed abandoned without further notice or order of the court.

* * *

As amended 10/17/05.

Comments: This rule was amended to allow the trustee to abandon any property of the estate pursuant to the rule. The rule was further amended to clarify that notice is provided via the § 341 meeting notice.

LBR 7003.1

COMMENCEMENT OF ADVERSARY PROCEEDING

(a) Cover Sheet. An Adversary Proceeding Cover Sheet in a form supplied by the clerk must be completed and attached to each complaint.

(b) Case Number System. Upon filing, an adversary proceeding will be assigned a number by the clerk that begins with a two-digit indicator of the year in which the proceeding was filed followed by a hyphen and the individualized case number of four digits. The four-digit individualized case numbers are as follows:

- Kansas City proceedings begin with a "6" (e.g., 06-6001);
- Topeka proceedings begin with a "7" (e.g., 06-7001);
- Wichita proceedings begin with a "5" (e.g., 06-5001).

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 7004.1
SERVICE OF SUMMONS AND COMPLAINT ON THE
UNITED STATES OR THE STATE OF KANSAS

(a) Service on the United States. When the United States and/or a department, agency or instrumentality of the United States is named as a party defendant, service of any summons or complaint must be made:

- (1) in the manner prescribed by rule or statute;
- (2) on the United States Attorney's Office located in the division city where the petition for relief was filed; and
- (3) on the department, agency or instrumentality of the United States as prescribed by D. Kan. Bk. S.O. 05-7.

(b) Service on the State of Kansas. When the State of Kansas and/or a department, agency or instrumentality of the State of Kansas is named as a party defendant, service of any summons or complaint must be made:

- (1) in the manner prescribed by rule or statute; and
- (2) on the department, agency or instrumentality of the State of Kansas as prescribed by D. Kan. Bk. S.O. 05-7.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 7012.1
MOTIONS TO DISMISS

(a) Memorandum in Support. A supporting brief or memorandum must accompany a motion to dismiss made pursuant to Fed. R. Bankr. P. 7012.

(b) Time for Filing of Responses and Replies. Any opposing brief or memorandum in response to a motion to dismiss must be filed and served within 23 days. The moving party may file and serve a supporting brief or memorandum in reply within 23 days of service of the response. The period to respond or reply applies regardless of the method of service because the period includes the additional 3-day period allowed under Fed. R. Civ. P. 6(e).

(c) Limit on Responses and Replies. No more than one response and one reply may be filed without prior order of the court.

(d) Oral Argument. A request for oral argument may be made in the motion or any memorandum.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 7026.1
DISCOVERY

(a) Application. This rule applies to adversary proceedings, and contested matters as prescribed by Fed. R. Bankr. P. 9014 and when ordered by the court. The provisions of Fed. R. Civ. P. 26(a) and (f), and the corresponding sections of this rule, do not apply to contested matters unless the presiding judge specifically orders otherwise.

(b) Completion Time. Discovery should be completed four months from the later of the date the case becomes at issue or the date a scheduling order is issued pursuant to Fed. R. Bankr. P. 7016. The court, for good cause shown, may reduce or enlarge the discovery period.

(c) Notice of Depositions Permitted by Fed. R. Bankr. P. 7030. The reasonable notice for deposing a person is 5 days unless the court enlarges or shortens the required notice for good cause shown.

(d) Motions for Protective Order.

(1) Automatically Stays Discovery. Except as provided in paragraph (2), a motion for protective order filed pursuant to Fed. R. Bankr. P. 7026(c) or 7030(d), or a motion to quash or modify a deposition subpoena filed pursuant to Fed. R. Bankr. P. 9016, stays the discovery or deposition at which the motion is directed pending order of the court.

(2) Proper Notice of Deposition. A motion filed under this rule will not stay a properly noticed deposition unless the motion is filed and served upon counsel or parties within 10 days after service of the deposition notice and at least 48 hours in advance of the deposition. No party, witness, or attorney is required to appear at a deposition stayed by a motion under this rule until the motion has been ruled upon or otherwise resolved.

(e) Additional Interrogatories to Those Permitted by Fed. R. Bankr. P. 7033(a). A request to serve additional interrogatories must be made by motion setting forth the proposed additional interrogatories and the reasons that establish good cause for their service. Additional interrogatories served under this rule are subject to the provisions of subsection (j) of this rule.

(f) Format for Interrogatories Served Pursuant to Fed. R. Bankr. P. 7033. Sufficient space for an answer must be provided after each interrogatory. Each answer must be preceded by the interrogatory being answered.

(g) Motions Relating to Discovery. Motions under Fed. R. Bankr. P. 7026(c) or 7037(a) directed at interrogatories, requests for production of documents, or requests for admissions under Fed. R. Bankr. P. 7033, 7034 or 7036, or at the responses thereto, must be accompanied by copies of the portions of the interrogatories, requests or responses in dispute.

(h) Depositions. Deposition transcripts must not be filed with the clerk unless ordered by the court. Original deposition transcripts will be delivered by the reporting stenographer to the party noticing the deposition:

- (1) after the deponent signs the completed transcript;
- (2) upon completion, if the deponent and all interested parties waive signature on the record; or
- (3) upon certification by the stenographer that the deponent and deponent's counsel received notice of the transcript's completion and that the deponent then failed or refused to sign the original transcript within a reasonable period of time.

The party receiving delivery of an original deposition transcript shall retain it and make it available for appropriate use by any party in a hearing or trial of the case.

(i) Disclosures and Discovery Not to be Filed.

(1) The following disclosures and discovery along with the responses thereto, must be served upon other counsel and unrepresented parties, but must not be filed with the clerk:

- (A) disclosures required under Fed. R. Bankr. P. 7026(a)(1) and (2);

- (B) interrogatories under Fed. R. Bankr. P. 7033;
- (C) requests for production or inspection under Fed. R. Bankr. P. 7034; and
- (D) requests for admission under Fed. R. Bankr. P. 7036.

(2) At the same time disclosures, discovery, or responses are served, the serving party must file a certificate of service with the clerk stating the type of disclosure, discovery or response served, the date and type of service, and the party served.

(j) Use of Discovery at Trial. A party shall file with the clerk at the beginning of trial the portions of any deposition transcript, interrogatories, requests for production or inspection, admissions, or any responses thereto, it reasonably anticipates using.

(k) Duty to Confer Concerning Discovery Disputes. In addition to the duties to confer set out in Fed. R. Bankr. P. 7026 through 7037, unless otherwise ordered, the court will not entertain any motion to quash or modify a subpoena pursuant to Fed. R. Bankr. P. 9016, or any motion under Fed. R. Civ. P. 26(c) or 37(a), unless counsel for the moving party has conferred or has made reasonable effort to confer with opposing counsel concerning the matter in dispute prior to the filing of the motion. Every certification required by Fed. R. Bankr. P. 7026(c) and 7037 and this rule related to the efforts of the parties to resolve discovery or disclosure disputes must describe the steps taken by all counsel to resolve the issues in dispute.

(l) Trial Preparation After Close of Discovery.

(1) The deposition of a material witness not subject to subpoena should ordinarily be taken during the discovery period. However, a material witness who agrees to appear at trial, but later becomes unable or refuses to attend, may be deposed at any time prior to trial.

(2) The physical or mental examination of a party pursuant to Fed. R. Bankr. P. 7035 may be ordered at any time prior to trial.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 7056.1

MOTIONS FOR SUMMARY JUDGMENT

(a) Memorandum in Support. The memorandum or brief in support of a motion for summary judgment must begin with a section that contains a concise statement of material facts as to which the movant contends no genuine issue exists. The facts must be numbered and refer with particularity to those portions of the record upon which the movant relies.

(b) Memorandum in Opposition. A memorandum in opposition to a motion for summary judgment must begin with a section that contains a concise statement of material facts about which the party contends a genuine issue exists. Each fact in dispute must be numbered by paragraph, refer with particularity to those portions of the record upon which the opposing party relies, and, if applicable, state the number of movant's fact that is disputed. All material facts set forth in the statement of the movant will be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of the opposing party. The statements required by this subsection are in addition to the material otherwise required by these rules and the applicable Federal Rules of Bankruptcy Procedure.

(c) Supporting Affidavits. All facts on which a motion or opposition is based must be presented by affidavit or declaration under penalty of perjury. Affidavits or declarations must be made on personal knowledge and by a person competent to testify to the facts stated, which are admissible in evidence. Where facts referred to in an affidavit or declaration are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document must be attached.

(d) Time for Filing of Responses and Replies. A party shall have 23 days to file and serve a response to a motion for summary judgment. After service of such a response, the moving party shall have 23 days to file and serve a reply memorandum in support of the motion. The period to respond or reply applies regardless of the method of service because it includes the additional three-day period allowed under Fed. R. Civ. P. 6(e).

(e) Limit on Responses and Replies. No more than one response and one reply may be filed without prior order of the court.

(f) Oral Argument. A request for oral argument may be made in the motion or any memorandum.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 9004.1

FORM OF PLEADINGS AND DOCUMENTS

(a) Pleadings, Motions, Briefs and Other Documents.

(1) Generally. Pleadings, motions, briefs, and other documents submitted for filing, including all exhibits and/or attachments, must be:

- submitted on 8-1/2 x 11 inch paper;
- typewritten, printed, or computer-generated with type no smaller than 10 points set no more than an average of 12 characters per inch; and
- double-spaced where practicable.

(2) Subsequent Filings. All pleadings and documents filed subsequent to those commencing a case must be endorsed on the upper right-hand corner of the first page with

the case number. The title of the subsequent pleading or document should describe the contents thereof, and state on whose behalf the document is filed.

(3) Adversary Proceedings. Fed. R. Bankr. P. 7010 and Official Bankruptcy Forms apply to all pleadings and documents filed in adversary proceedings.

(b) Orders.

(1) Generally.

(A) The following information must appear at the top of the signatory page of all orders:

- the name of the court;
- the case caption, the case number and chapter; and
- the caption of the order and page number.

(B) The top margin on the first page of an order must be 4 inches; all subsequent pages of the order must have a top margin of 1 inch.

(C) The last line of the order preceding counsel signatures must consist of three pound symbols (# # #), centered, to indicate the end of the order. Omit a signature line for the judge because all orders will be signed electronically in the top margin of the first page.

(2) Resulting from Hearing. Unless the court directs otherwise, orders resulting from an actual hearing are due 10 days from the date of the hearing. The first paragraph of the order must begin with the actual date of the hearing, such as: “Now on this 23rd day of July, 2005, this matter came before the court....”

(3) No Hearing Held. Orders resulting from the failure to object or respond to a notice with objection deadline are due 10 days after the deadline expires. The first paragraph of the order must begin by stating that the matter was noticed with opportunity for hearing but no objections were filed and no hearing was held.

(c) Requests for Relief in Pleadings. A short statement of the relief requested by a motion must be included in the pleading’s caption. Pleadings must not contain an unrelated request for relief, *i.e.*, a motion for relief from the automatic stay may request adequate protection, but may not request unrelated relief, such as a request to dismiss the case. A request for relief may not be included in a responsive pleading except as permitted by the Federal Rules of Bankruptcy Procedure.

(d) Orders Addressing Requests for Relief. Orders resolving pleadings must address all the requests for relief made in the pleading and, to assist the clerk with docketing and quality control, must identify in the caption of the order the relief granted and/or denied.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 9013.1
BRIEFS AND MEMORANDA

(a) Contents. All briefs and memoranda filed with the court must contain:

- (1) a statement of the nature of the matter before the court;
- (2) a concise statement of the facts supported by reference to the record in the case;
- (3) a statement of the question or questions presented; and
- (4) the argument, which must refer to all statutes, rules and authorities relied upon.

(b) Page Limitations. The arguments and authorities section of briefs or memoranda shall not exceed 30 pages absent an order of the court.

(c) Citation of Unpublished Decisions. An unpublished decision cited in a brief or memorandum shall be attached as an exhibit to the memorandum or brief only if it is unavailable via electronic means (e.g., Westlaw or LEXIS). Unpublished decisions that are available via electronic means shall not be furnished to the court and shall be furnished to opposing parties only upon request. Unpublished decisions should be cited as follows: *In re Smith*, No. 02-12345, 2005 WL 8763523, at *2 (Bankr. D. Kan. Jan. 7, 2005)(if available in an electronic database) or *In re Smith*, No. 02-12345, (Bankr. D. Kan. Jan. 7, 2005), if not.

(d) Additional Copies of Briefs for Court. The court may order the party filing a brief or document to deliver additional working copies to the clerk for use by the judge.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 9013.2

NON-DISPOSITIVE MOTIONS PRACTICE

(a) Hearing Docket. A bankruptcy judge may establish a regularly scheduled docket for non-evidentiary hearing on motions. A motion may be set on such docket by filing with the motion a separate notice of hearing clearly stating the hour, date, and location of such hearing. A certificate of service must be filed for the motion and notice indicating service on required parties. It is the responsibility of the movant to determine (1) whether a bankruptcy judge has established a docket as provided by this rule, and (2) the correct hour, date, and location of hearing so established.

(b) Time. Except for cause shown, a motion filed less than 10 days before hearing may not be considered by the court. Motions that require more than 10 days' notice under the Code, the Federal Rules of Bankruptcy Procedure or these rules, must comply with this requirement.

(c) Notice with Objection Deadline. Where otherwise allowed by the Code, the Federal Rules of Bankruptcy Procedure, or these rules, a motion may be filed with a separate notice of objection deadline. The notice may provide for hearing on any objection in accordance with this rule.

(d) Waiver of Briefs in Support of Motions. Briefs and memorandum in support of or in opposition to non-dispositive motions are prohibited unless required by the court notwithstanding D. Kan. Rule 7.1(a). *See* D. Kan. LBR 7056.1 and D. Kan. LBR 7012.1.

(e) Preparation of Motions and Orders. Motions and orders shall be prepared and submitted in accordance with D. Kan. LBR 9004.1.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 9019.2

ALTERNATIVE DISPUTE RESOLUTION

The court's primary ADR procedure is mediation facilitated by a private mediator chosen by the parties. The mediation process is intended to improve communication among the parties and provide the opportunity for greater litigant involvement in the earlier resolution of disputes, with the ultimate goal of securing the just, speedy and inexpensive disposition of civil cases.

(a) General Guidelines for Alternative Dispute Resolution Processes

(1) Any alternative procedure employed to resolve a dispute pending before the United States Bankruptcy Court for the District of Kansas is governed by D. Kan. Rule 16.3, any other rules or guidelines adopted by the United States District Court for the District of Kansas, and this rule.

(2) The judge to whom a case has been assigned may, at the earliest appropriate opportunity, encourage or require the parties and their counsel who are involved in a dispute to attempt to resolve or settle the dispute using an extrajudicial proceeding such as mediation, a case settlement or evaluation conference, or another alternative dispute resolution process unless, in the judge's discretion, it is determined that:

(A) It would be futile;

(B) The mediator indicates the case is inappropriate for the process;

(C) The parties agree that a request for procedural action by the court will facilitate settlement; or

(D) In the opinion/judgment of the mediator or court official, there is a danger of physical harm to any party connected with the process.

(3) The judge may refer a case for an extrajudicial proceeding to be supervised by any other judge of the district or bankruptcy court, any retired district or bankruptcy judge, or any neutral attorney. If the parties mutually agree on a neutral non-attorney, the judge shall consider and may refer the case to that person. The person to whom the case is referred will generally be called "mediator" in the balance of this rule.

(4) The mediator sets and convenes the first meeting between the participants, and files with the court a report on the status of the alternative dispute resolution process within 45 days of the initial appointment. As part of the mediation, case settlement, or evaluation conference process, the parties, their counsel, and the mediator discuss every aspect of the case that bears on its settlement. The mediator meets privately with each party and the party's counsel to discuss the mediator's evaluation of the case. Except for good cause shown, it is mandatory that each party have a representative with settlement authority attend the mediation, case settlement, or evaluation conference process, and "with settlement authority" is defined in D. Kan. Rule 16.3. The court may, as it deems appropriate, make this paragraph applicable to any other alternative dispute resolution process.

(5) No written statements or memoranda parties may submit to the mediator under this order will be placed in the court file. The mediator must not communicate to the judge any matter concerning the proceeding except whether the case has been settled or that a party or attorney has failed to appear. Fed. R. Evid. 408 governs the admissibility of statements, memoranda, and other communications made during or in connection with the extrajudicial process.

(6) Upon conclusion of the alternative dispute resolution process, either by settlement or by impasse, the mediator will communicate to the court the results of the mediation.

* * *

As amended 10/17/05.

Comments: This rule was amended to better conform with Fed. R. Evid. 408.

LBR 9029.3

BANKRUPTCY BENCH BAR COMMITTEE

There is a Bankruptcy Bench Bar Committee appointed by the court.

(a) Membership. The committee shall consist of the chief judge, such other judges as may from time to time be appointed by the court, the United States Attorney or an assistant designated by him or her, the U.S. Trustee for Region 20, or an assistant designated by him or her, six actively practicing members of the bar of the bankruptcy court, a Chapter 13 Trustee, and a Chapter 7 Trustee, selected by the bankruptcy judges.

(b) Terms of Office. The court shall appoint the six actively practicing members of the bar, the Chapter 13 trustee, and the Chapter 7 trustee to serve three year terms or such other lesser terms as the court may decide, to begin on July 1 of each year.

(c) Meetings. The Bench Bar Committee shall meet at such time as it shall determine and at the call of the chief judge.

(d) Duties. The Bench Bar Committee shall have general advisory and liaison roles with respect to the operation of the court and shall, among other things: (1) Provide a forum for the continuous study of the operating procedures of the court; (2) serve as liaison among the court, its bar and the public; (3) study, consider, and recommend the adoption, amendment, or rescission of the Rules of Practice of the court; and (4) make such studies and render such reports and recommendations as the court shall direct.

* * *

As amended 10/17/05.

Comments: This rule was amended stylistically.

LBR 9074.1
JOURNAL ENTRIES AND ORDERS

(a) Preparation of Journal Entry or Order. Counsel shall prepare and upload within 10 days a journal entry or order:

- (1) When directed by the court to prepare the journal entry or order reflecting a judgment, decision, or ruling; or
- (2) When the parties announce in court that a pending matter has been settled by agreement.

(b) Journal Entry or Order Submitted Without Approval of All Counsel; Proof of Service. If approval of the Journal Entry referenced in subsection (a) cannot be obtained after a reasonable effort to obtain such approval, counsel may upload the journal entry or order without the approval of all other counsel involved in the matter. The phrase “order submitted pursuant to D. Kan. LBR 9074.1” must appear above the signature line of any counsel whose signature on the journal entry or order has not been approved. Counsel uploading a journal entry or order not approved by all counsel involved in the matter must, on the same date, serve copies thereof on all other counsel involved. Proof of service of the uploaded journal entry or order must be established by the filing of a certificate of service in the manner prescribed by D. Kan. LBR 9013.3. The uploaded journal entry or order must be attached as an exhibit to the certificate of service. Any objections to a journal entry or order must be filed and served within 10 days of the date of service of the journal entry or order. The court may enter the journal entry or order if an objection is not timely filed and served. The court will settle any objections to the journal entry or order.

(c) Inapplicability to Chapter 13 Trustee. The procedure set forth in subsection (b) above may not be used in lieu of obtaining the approval of a Chapter 13 Trustee to any journal entry or order in any Chapter 13 case.

(d) Journal Entry or Order Submitted With Approval of All Counsel. Counsel may upload a journal entry or order without serving copies thereof when all other counsel involved in the matter have previously authorized their signatures to the specific journal entry being uploaded. The court may enter the journal entry or order upon receipt.

* * *

As amended 10/17/05.

Comments: This rule was amended to conform to practices informally adopted since implementing ECF and to make explicit the inapplicability of the rule to Chapter 13 Trustee approval of Chapter 13 orders.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 05-5
ORDER ADOPTING INTERIM
FEDERAL RULES OF BANKRUPTCY PROCEDURE**

On April 20, 2005 the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the Act) (Public Law 109-8, 119 Stat. 23) was enacted into law. Most of the provisions of the Act are effective on October 17, 2005. However, the general effective date of the Act has not provided sufficient time to promulgate rules after appropriate public notice and an opportunity for comment.

The Advisory Committee on Bankruptcy Rules has prepared and amended Interim Rules designed to implement the substantive and procedural changes mandated by the Act. The Committee on Rules of Practice and Procedure of the Judicial Conference of the United States has also approved these Interim Rules and recommends the adoption of the Interim Rules to provide uniform procedures for implementing the Act.

In consideration of the foregoing, and pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure,

IT IS HEREBY ORDERED that the Interim Federal Rules of Bankruptcy Procedure, as amended from time to time, are adopted in their entirety without change by the judges of this Court effective October 17, 2005 to conform with the Act. For cases and proceedings not governed by the Act, the Federal Rules of Bankruptcy Procedure, the local rules of the U.S. District Court for the District of Kansas, and such local rules, standing orders and procedures adopted by this Court, other than these Interim Federal Rules of Bankruptcy Procedure, shall apply. These Interim Rules shall remain in effect until further order of the Court.

IT IS SO ORDERED.

Dated this 17th day of October, 2005.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 05-6
ORDER ADOPTING INTERIM
LOCAL RULES OF THE UNITED STATES BANKRUPTCY COURT**

On April 20, 2005 the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the Act) (Public Law 109-8, Stat. 23) was enacted into law. Most of the provisions of the Act are effective on October 17, 2005. However, the general effective date of the Act has not provided sufficient time to promulgate rules after appropriate public notice and an opportunity for comment.

The Bench Bar Committee has recommended the adoption of Interim Local Rules designed to implement the substantive and procedural changes mandated by the Act, as well as to clarify or correct some existing rules. The judges of this Court have also approved these Interim Local Rules and recommend the adoption of the Interim Local Rules to provide uniform procedures for implementing the Act.

In consideration of the foregoing, and pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure,

IT IS HEREBY ORDERED that the Interim Local Rules are adopted in their entirety without change by the judges of this Court effective October 17, 2005 to conform with the Act. The Interim Local Rules apply to all cases pending on, or filed or reopened after October 16, 2005, unless otherwise specifically stated in the Interim Local Rules. The Interim Local Rules shall remain in effect until further order of the Court. Those local rules that have not been amended or rescinded by these Interim Local Rules remain in effect for all cases.

IT IS SO ORDERED.

Dated this 17th day of October, 2005.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 05-7
SCHEDULING, LISTING AND NOTICING THE
UNITED STATES AND AGENCIES OF THE
STATE OF KANSAS AS A CREDITOR**

(a) Departments, Agencies and Instrumentalities of the United States. If a department, agency, or instrumentality of the United States is a creditor, the schedules and matrix must list that agency at the address provided by this Standing Order. Any notice or service given to an address listed in this Standing Order will be in addition to any notice required by statute, rule or regulation. *See also* D. Kan. LBR 7004.1 and Fed. R. Bankr. P. 7004(b)(4) and (5) regarding service in adversary proceedings and contested matters.

(b) United States Attorney's Office. In all cases in which any department, agency or instrumentality of the United States is a creditor, the schedule of creditors and matrix must also list the United States Attorney's Office located in the division headquarters in which the petition for relief has been filed. The addresses are:

1. Office of United States Attorney
Robert J. Dole U.S. Courthouse, Suite 360
500 State Avenue
Kansas City, Kansas 66101
2. Office of United States Attorney
U.S. Courthouse, Suite 290
444 Southeast Quincy Street
Topeka, Kansas 66683
3. Office of United States Attorney
1200 Epic Center
301 N. Main
Wichita, Kansas 67202

(c) Addresses for certain Departments, Agencies and Instrumentalities of the United States. If one of the following departments, agencies or instrumentalities of the United States is a creditor, the schedule and matrix should list the agency at the address indicated herein:

1. DEPARTMENT OF AGRICULTURE
(excepting Farm Services Agency, Ag Credit Division and Commodity Credit Divisions; and Rural Economic Community Development, which are hereafter individually set forth)
Regional Counsel
Department of Agriculture
Post Office Box 419205
Kansas City MO 64141-0205

Farm Services Agency
Farm Loan Programs Division
3600 Anderson Avenue
Manhattan KS 66503-2511

Farm Services Agency
Commodity Credit Division
3600 Anderson Avenue
Manhattan KS 66503-2511

USDA Rural Development
Suite 100
1303 SW First American Place
Topeka KS 66604-4040

USDA Centralized Servicing Center
PO Box 66879
St Louis MO 63166

2. DEPARTMENT OF EDUCATION (DOE)
Regional Director Region IX
Department of Education
Office of Postsecondary Education
50 United Nations Plaza
San Francisco CA 94102
3. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
United States Department of Health and Human Services
Office of the General Counsel
601 East 12th Street Room N1800
Kansas City MO 64106
4. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Regional Counsel
Department of Housing and Urban Development
Professional Building
400 State Avenue
Kansas City KS 66101-2406
5. INTERNAL REVENUE SERVICE (IRS)
Internal Revenue Service
PO Box 21126
Philadelphia, PA 19114
6. SMALL BUSINESS ADMINISTRATION (SBA)
District Counsel
US Small Business Administration
Lucas Place
323 West 8th Street Suite 501
Kansas City MO 64105; or

District Counsel
U S Small Business Administration
271 W Third Street North
Suite 2500
Wichita KS 67202-1212

7. SOCIAL SECURITY ADMINISTRATION
Office of General Counsel
Social Security Administration Region VII
Federal Office Building
601 East 12th St Room 535
Kansas City MO 64106
8. UNITED STATES POSTAL SERVICE
Law Department
US Postal Service
9350 South 150 East
Suite 800
Sandy UT 84070-2716
9. VETERANS ADMINISTRATION (VA)
District Counsel
Veterans Administration
5500 East Kellogg
Wichita KS 67218

(d) Departments, Agencies and Instrumentalities of the State of Kansas. If a department, agency, or instrumentality of the State of Kansas is a creditor, the schedules and matrix must list that agency at the address provided by this Standing Order. Any notice or service given to an address listed in this Standing Order will be in addition to any notice required by statute, rule or regulation. *See also* D. Kan. LBR 7004.1 and Fed. R. Bankr. P. 7004(b)(6) regarding service in adversary proceedings and contested matters.

(e) Addresses for certain Departments, Agencies and Instrumentalities of the State of Kansas. This list of addresses constitutes the Clerk's register of mailing addresses as required by Fed. R. Bankr. P. 5003(e). If one of the following departments, agencies or instrumentalities of the State of Kansas is a creditor, the schedule and matrix should list the agency at the address indicated herein:

1. Kansas Department of Administration
Attn Director of Accounts and Reports
Landon State Ofc Bldg Rm. 351-S
900 SW Jackson
Topeka KS 66612
2. Kansas Department on Aging
New England Building
503 S Kansas Ave.
Topeka KS 66603-3404
3. Kansas Department of Agriculture
Office of Chief Counsel
109 SW 9th 4th Floor
Topeka KS 66612
4. Kansas Department of Commerce
1000 SW Jackson
Suite 100
Topeka KS 66612-1354

5. Kansas Department of Education
120 SE 10th Ave
Topeka KS 66612-1182
6. Kansas Department of Health and Environment
1000 SW Jackson
Suite 540
Topeka KS 66612-1290
7. Kansas Department of Labor
Attn Legal Section
401 SW Topeka Blvd.
Topeka KS 66603
8. Kansas Department of Revenue
Civil Tax Enforcement
PO Box 12005
915 SW Harrison
Topeka KS 66612-2005
9. Kansas Department of Social and Rehabilitation Services
Office of the Secretary
Docking State Office Building
915 SW Harrison
Topeka KS 66612
10. Kansas Department of Transportation
Eisenhower State Office Bldg
3rd Floor West
700 SW Harrison
Topeka KS 66603-3754
11. Kansas Department of Wildlife and Parks
1020 South Kansas Ave
Room 200
Topeka KS 66612-1233

Dated this 17th day of October, 2005.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

Comments: This rule was amended both to correct the IRS address and to provide the addresses of the U.S. Attorney's Offices, to assist with service. It was also amended to remove the suggestion that this Standing Order would continue to serve as the "Register of Addresses" the clerk is required to maintain. Because of changes in Fed. R. Bankr. P. 5003, the potential exists for the clerk to receive addresses from dozens of taxing entities. As a result, it is no longer practical or feasible to maintain the registry in the text of this Standing Order.